



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 230306-0066]

RIN 0648-BK71

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Spiny Lobster Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Framework Amendment 1 under the Fishery Management Plans for Puerto Rico, St. Croix, and St. Thomas and St. John (collectively, the island-based FMPs) (Framework Amendment 1). For spiny lobster, this final rule modifies annual catch limits (ACLs) in the U.S. Caribbean exclusive economic zone (EEZ) around Puerto Rico, St. Croix, and St. Thomas and St. John. The final rule also revises the accountability measure (AM) trigger for spiny lobster in the EEZ around each island group. The purpose of this final rule is to update management reference points for spiny lobster under the island-based FMPs, consistent with the best scientific information available to prevent

overfishing and achieve optimum yield.

DATES: This final rule is effective on April 15, 2023.

ADDRESSES: An electronic copy of Framework Amendment 1, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/generic-framework-amendment-1-modification-spiny-lobster-management-reference-points>.

FOR FURTHER INFORMATION CONTACT: Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727-824-5305, email: sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: The Puerto Rico, St. Croix, and St. Thomas and St. John fisheries target spiny lobster, which is managed under each island-based FMP. The island-based FMPs were prepared by the Caribbean Fishery Management Council (Council) and NMFS. NMFS implemented the island-based FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act).

On December 22, 2022, NMFS published a proposed rule to implement management measures described in Framework Amendment 1 and requested public comment (87 FR 78625). The proposed rule and Framework Amendment 1 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Framework

Amendment 1 and implemented by this final rule is provided below.

All weights described in this final rule are in round weight.

Management Measures Contained in this Final Rule

For spiny lobster, this final rule revises the ACLs in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John, and the sequence of landings data used by NMFS to determine if an AM is triggered for, or needs be applied in Federal waters around each island group.

Annual catch limits

The ACLs for spiny lobster implemented by this final rule are based on stock assessments around each island group completed in 2019 through the Southeast Data, Assessment, and Review process (SEDAR 57). The SEDAR 57 assessments were reviewed by the Council's Scientific and Statistical Committee and determined to be suitable for management advice. For spiny lobster around each island group, only commercial landings data are collected. Because recreational landings data are not available, the ACLs for spiny lobster are based on commercial landings and apply to all harvest for the stock, whether commercial or recreational.

For the Puerto Rico FMP, the ACL for spiny lobster will decrease to 369,313 lb (167,517 kg) for the 2023 fishing year from the previous ACL of 527,232 lb (239,148

kg), and then further decrease to 366,965 lb (166,452 kg) for the 2024 and subsequent fishing years.

For the St. Croix FMP, the ACL for spiny lobster will decrease to 140,667 lb (63,805 kg) for the 2023 fishing year from the previous ACL of 197,528 lb (89,597 kg), and then further decrease to 120,830 lb (54,807 kg) for the 2024 and subsequent fishing years.

For the St. Thomas and St. John FMP, the ACL for spiny lobster will decrease to 142,636 lb (64,698 kg) for the 2023 fishing year from the previous ACL of 209,210 lb (94,892 kg), and then further decrease to 126,089 lb (57,193 kg) for the 2024 and subsequent fishing years.

The updated management reference points, including the ACLs, are expected to better protect against overfishing of the stock in relation to the previous catch limits, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

NMFS notes that Framework Amendment 1 includes recommended ACLs for the 2021 and 2022 fishing years. However, as a result of delays associated with the final rule implementing the island-based FMPs, which needed to precede this rulemaking, and the time needed by NMFS to develop and implement this rulemaking, this final rule does not include spiny lobster ACLs for the 2021 and 2022 fishing years.

Accountability measures

Under each island-based FMP, the AM for spiny lobster states that NMFS compares available landings of spiny lobster to the spiny lobster ACL based on a moving multi-year average of landings. In the first year following implementation of the island-based FMPs, NMFS compares a single year of available landings to the ACL; in the second year following implementation, NMFS compares a single year of available landings to the ACL; in the third year following implementation, NMFS compares a 2-year average of available landings to the ACL; and in the fourth year following implementation, NMFS compares a 3-year average of available landings to the ACL. Thereafter, NMFS compares a progressive running 3-year average of available landings to the ACL. NMFS, in consultation with the Council, may deviate from the specific time sequences based on data availability.

Framework Amendment 1 and this final rule revise how NMFS evaluates whether landings of spiny lobster around each island group have exceeded the ACL and trigger the AM. As described in Framework Amendment 1, NMFS will compare the average of the most recent 3 years of available spiny lobster landings to the average of the ACLs in effect during those same fishing years. An AM may be triggered if the average annual landings exceeds the average of the ACLs in effect during those same fishing years. The Council determined this process would better anticipate changes to

the spiny lobster ACLs moving forward, following future stock assessments for spiny lobster.

Framework Amendment 1 also clarifies that if spiny lobster landings for a given year are available, but if NMFS has concerns with the data reliability, *e.g.*, concerns with expansion factors applied to reported landings, then NMFS may use different data years to compare to the ACL to determine if the AM has been triggered, consistent with the best scientific information available. The process for how NMFS would apply the timing of an AM during a fishing year remains as described in each of the island-based FMPs and the implementing final rule.

If NMFS determines that an ACL overage resulted from improved data collection or monitoring rather than from increased catch, the AM would not be triggered and NMFS would not reduce the length of the fishing season for spiny lobster.

Measures in Framework Amendment 1 not Codified in this Final Rule

In addition to the ACLs described in this final rule, Framework Amendment 1 specifies the proxy for maximum sustainable yield (MSY proxy), as well as the maximum fishing mortality threshold (MFMT) and minimum stock size threshold (MSST) for spiny lobster. Framework Amendment 1 also specifies the overfishing limits and acceptable biological catch (ABC) levels for spiny lobster in the

2021-2023 fishing years and in the 2024 and subsequent fishing years for Puerto Rico, St. Croix, and St. Thomas and St. John. However, as explained earlier, this final rule does not include spiny lobster management reference points for the 2021 and 2022 fishing years.

For the Puerto Rico FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 432,501 lb (196,179 kg), 0.197 ($F_{30\%SPR}$), and 84.8 billion eggs ($0.75 \times SSB_{MFMT}$), respectively. The OFL for spiny lobster will be 440,803 lb (199,944 kg) for the 2023 fishing year, and then 438,001 lb (198,673 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 388,750 lb (176,334 kg) for the 2023 fishing year, and then 386,279 lb (175,213 kg) for the 2024 and subsequent fishing years.

For the St. Croix FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 127,742 lb (57,943 kg), 0.203 ($F_{30\%SPR}$), and 23 billion eggs ($0.75 \times SSB_{MFMT}$), respectively. The OFL for spiny lobster will be 167,897 lb (76,156 kg) for the 2023 fishing year, and then 144,219 lb (65,416 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 148,071 lb (67,163 kg) for the 2023 fishing year, and then 127,189 lb (57,691 kg) for the 2024 and subsequent fishing years.

For the St. Thomas and St. John FMP, the MSY proxy, MFMT, and MSST for spiny lobster will be 133,601 lb (60,600 kg), 0.244 ($F_{30\%SPR}$), and 21.3 billion eggs ($0.75 \times SSB_{MFMT}$),

respectively. The OFL for spiny lobster will be 170,247 lb (77,222 kg) for the 2023 fishing year, and then 150,497 lb (68,264 kg) for the 2024 and subsequent fishing years. The ABC for spiny lobster will be 150,143 lb (68,103 kg) for the 2023 fishing year, and then 132,725 lb (60,203 kg) for the 2024 and subsequent fishing years.

Comments and Responses

NMFS received no comments on the proposed rule to implement management measures described in Framework Amendment 1. Therefore, no changes were made to this final rule based on public comment.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Framework Amendment 1, the island-based FMPs, other provisions of the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork

Reduction Act of 1995. A description of this final rule, why it is being considered, and the purposes of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Caribbean, Fisheries, Fishing, Spiny lobster.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 6, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory
Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 622 as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.440, revise paragraph (c) to read as follows:

§ 622.440 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(c) *Spiny lobster*. (1) For the 2023 fishing year, the ACL is 369,313 lb (167,517 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 366,965 lb (166,452 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for that fishing year, as specified in paragraph (c)(1) of this section. If

NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward the end of the fishing year.

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3. In § 622.480, revise paragraph (c) to read as follows:

§ 622.480 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

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(c) *Spiny lobster*. (1) For the 2023 fishing year, the ACL is 140,667 lb (63,805 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 120,830 lb (54,807 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as

described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for that fishing year, as specified in paragraph (c)(1) of this section. If NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward the end of the fishing year.

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4. In § 622.515, revise paragraphs (c) to read as follows:

§ 622.515 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

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(c) *Spiny lobster*. (1) For the 2023 fishing year, the ACL is 142,636 lb (64,698 kg), round weight. For the 2024 and subsequent fishing years, the ACL is 126,089 lb (57,193 kg), round weight.

(2) At or near the beginning of the fishing year, NMFS will compare a 3 year average of available landings to the average ACLs effective during those same years, as described in the FMP. If NMFS estimates that average landings have exceeded the average ACLs, the AA will file a notification with the Office of the Federal Register to reduce the length of the fishing season for spiny lobster within that fishing year by the amount necessary to prevent average landings from exceeding the ACL for that fishing year, as specified in paragraph (c)(1) of this section. If NMFS determines that a fishing season reduction is not necessary based on the best scientific information available, or if NMFS determines the ACL exceedance was due to improved data collection or monitoring rather than from increased landings, NMFS will not reduce the length of the fishing season. Any fishing season reduction required under this paragraph (c)(2) will be applied starting from September 30 and moving earlier toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied starting from October 1 and moving later toward

the end of the fishing year.

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[FR Doc. 2023-04912 Filed: 3/15/2023 8:45 am; Publication Date: 3/16/2023]